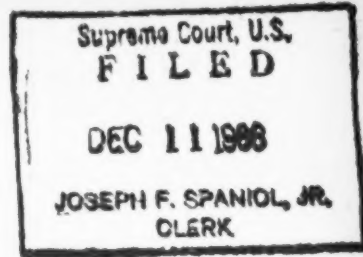


86-974

No. _____



In The

SUPREME COURT of the UNITED STATES

OCTOBER TERM, 1986

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JACQUELINE M. ROBNETT,

Petitioner,

v.

THE UNITED STATES,

Respondent.

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PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

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Jacqueline M. Robnett
P.O. Box 659
Suisun City, California
(707) 646-3348

Petitioner, Pro Se

74 (7)



QUESTIONS PRESENTED

1. Is the Sixteenth Amendment to the U.S. Constitution null and void because:

- (a) the requisite number of states in the union did not ratify properly and
- (b) because of the presence of fraud committed by Secretary of State, Philander C. Knox, in the ratification process of the amendment?

2. Can U.S. Government agencies constitutionally seize the wages of sovereign State citizens in the name of U.S. government taxation when no competent court order, Federal tax lien, jeopardy assessment or any other type of assessment exists? Does the seizure constitute a valid assessment?

3. Since Petitioner has only the wages earned by her own labor as income, can

Congress constitutionally make her wages liable for an excise tax without apportionment as directed in Article I, Section 9?

4. Is the act of placing an income tax/ excise tax on petitioner and her wages the same thing as taxing her right to labor for her daily sustenance as if it were a privilege?

5. If it be true that the income tax is not a tax on the actual income but on the "privilege of receiving the income", what is/are the privilege(s) making petitioner liable for the income tax?

6. In this instant case, does the Internal Revenue Service have jurisdiction over Petitioner and her wages?

LISTING OF PARTIES

PETITIONER:

Jacqueline M. Robnett,
representing herself
P.O. Box 659
Suisun City, California
94585

RESPONDENT:

The United States

Solicitor General
Department of Justice
Washington, D.C. 20530

ATTORNEY FOR RESPONDENTS:

Michael L. Paup,
Chief, Appellate Section
Tax Division
Department of Justice
Washington, D.C. 20530

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Respondent.

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PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

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Petitioner respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Federal Circuit, entered in this proceeding on July 14, 1986, rehearing denied September 17, 1986

OPINIONS BELOW

The United States Claims Court filed its Order Of Dismissal on November 21, 1985, which is reprinted in Appendix A.

The order denying Petitioner's Petition for Rehearing and Reconsideration was denied on December 30, 1985 as being untimely, and numerous other errors. Order is included in Appendix B. Petitioner on three separate occasions requested Claims Court rules (see Appendix B) but no copies of the court rules were ever sent to her.

The U.S. Court of Appeals for the Federal Circuit unpublished opinion upholding the U.S. Claims Court opinion was handed down on July 14, 1986 is included herein as part of the Appendix beginning with Page C-1.

The denial for rehearing by the U.S. Court of Appeals for the Federal Circuit

dated September 17, 1986 is reprinted in Appendix D.

GROUNDS FOR JURISDICTION

Jurisdiction of the United States Claims Court was pursuant to 28 U.S.C. Section 1491(a)(1) and (a)(2).

Jurisdiction of the United States Circuit Court of Appeals for the Federal Circuit was pursuant to 28 U.S.C. Section 1295 (a)(3) and Section 1296.

The jurisdiction of the United States Supreme Court is invoked under 28 U.S.C. Section 1254(1) and the Supreme Court's own ruling under ANNOTATION Sections 1 and 2 in *Donald R. Doremus v. Board of Education, Borough of Hawthorne*, 342 U.S. 429, 96 L. Ed. 475, 72 S. Ct. 394.

CONSTITUTIONAL PROVISION INVOLVED

Article I, Section 8, Clause 1, U.S. Constitution:

and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the Common Defence and General Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;"

Article 1, Section 2, Clause 3, U.S. Constitution:

"Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers"

Article I, Section 9, Clause 4, U.S. Constitution:

"No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken."

Amendment I, U.S. Constitution:

"Congress shall make no law . . . abridging the freedom of speech, . . . and to petition the government for a redress of grievances."

Amendment V, U.S. Constitution:

"No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Section 1, Amendment XIII, U.S. Constitution:

"Neither slavery nor involuntary

servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

Amendment XVI, U.S. Constitution:

"The congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

18 U.S.C Section 1001:

"Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000. or imprisoned not more than five years, or both.

STATUTORY PROVISIONS INVOLVED

Section 205, Revised Statutes of the United States:

"Whenever official notice is received at the Department of State that any amendment proposed to the constitution of the United States has been adopted, according

to the provisions of the constitution, the Secretary of State shall forth with cause the amendment to be published in the newspapers authorized to promulgate the laws, with his certificate, specifying the States by which the same may have adopted, and that the same has become valid, to all intents and purposes as a part of the Constitution of the United States."

STATEMENT OF PETITIONER'S STATUS

Petitioner is a free, sovereign, unenfranchised Caucasian individual, born in the city of Philadelphia, Pa. She is a citizen of the State of California.

Petitioner has formally, openly and correctly renounced all contracts with the Federal and State governments which would disable or impair her constitutional rights.

These contracts include, but are not limited to, (1) any power over plaintiff given to government with the recording of her Birth Certificate (2) her social Security Number and any and all intentions of participating in the Social Security

system (3) voluntary participation in the Federal Reserve system (4) any association actual or implied with the Uniform commercial code.

STATEMENT OF THE CASE

Jacqueline M. Robnett, Petitioner, is a U.S. Civil Service employee. For the past 12 years she has been, and is now, employed at Mare Island Navy Shipyard, Vallejo, Ca. She works as a journeyman electrician repairing and overhauling submarines. In return for her labor she is paid an hourly wage.

Early in 1983 she began studying the U.S. Congressional Record, laws, and resulting court cases regarding Federal Income Tax. She became convinced that congress never intended that her wages should be in and of themselves liable for the income tax, that 26 U.S.C. contained

no laws which obligated her to pay an income tax on her wages, and that the Sixteenth Amendment did not change or amend the Constitution - so as to make citizens receiving only wages in return for their labor at occupations of common right, liable for an excise or other direct tax without apportionment.

In September, 1983 she filed an "Exempt" W-4 form with Mare Island's comptroller's office. No withholdings were taken until approximately September, 1984. The Comptroller, without warning, began seizing petitioner's wages at the rate of "Single-1" - see withholding tables of Title 26 U.S.C., Subtitle A, Ch. 1A, Part 1, Section 1. TAX IMPOSED.

For a year petitioner wrote numerous letters to her employer and to the Internal Revenue Service in Fresno, Sacramento, and San Francisco explaining that she owed

no income taxes on the money she earned by laboring for Mare Island as an electrician and requesting a hearing. She received replies from Mare Island's legal office disagreeing with her and instructing the comptroller to continue withholding her rightful property from her. The Internal Revenue Service never answered at all.

On the day Mare Island agents began to conspire with the Internal Revenue Service, and unjustly deprive her of her rightful wages, petitioner owed no back taxes.

For the tax years 1983 and 1984 petitioner filed a "Statement and Demand" with the Internal Revenue Service in Fresno, Calif. She asserted that she owed no Federal Income tax and demanded the return of her defrauded wages. The I.R.S. never responded to either "Statement and Demand".

Since learning in 1983 that she had no income tax liability, petitioner has not assessed herself by filing a Form 1040 with the I.R.S.

In October, 1985 petitioner was able to obtain her own certified copies of documents from the U.S. Archives proving fraud in the certification of the Sixteenth amendment to the U.S. Constitution.

Realizing the I.R.S. and the Navy Department had no intention of ceasing their conspiracy to defraud petitioner of her wages she filed a Complaint in the U.S. Claims Court, demanding the return of her money, an injunction against Mare Island Navy Shipyard and actual and punitive damages for the wanton trampling of her U.S. Constitutional rights.

The issues raised by petitioner before the U.S. Claims Court were:

1. The Sixteenth Amendment to the U.S. Constitution was never ratified by the

requisite number of states and was fraudulently announced as being ratified by Secretary of State Philander C. Knox and is not now and never was part of the Constitution.

THAT EVEN IF THE SIXTEENTH AMENDMENT WERE LAW:

2. That petitioner owed no taxes from prior years and that there were no tax assessments of any kind against her which would make her liable for the amounts of money the Navy and I.R.S. were withholding from her
3. That she was being compelled to perform involuntary servitude for the U.S. Government
4. That the income tax is on income severed from the source and that petitioner's wages are her source
5. That the Constitution forbids making a citizen's right to labor for his existence, liable for a Federal excise tax,

except, perhaps, by apportionment.

6. That if the seizure of petitioner's wages against her will and over her objection by the I.R.S. and the Navy could be construed to be a tax, such would be a direct tax and in violation of Article I, Section 9, Clause 4 of the Constitution.

7. That the manner in which the I.R.S. was using Treasury Regulation 31.3402(f)(2)-1(g)(5)(ii) through (vii) against petitioner was violating her constitutional rights.

8. That no meaningful hearing was ever provided petitioner by the Internal Revenue Service

Petitioner's Complaint was filed by the clerk of the U.S. Claims Court on November 19, 1985. Two days later, Senior Judge Mastin G. White dismissed the case addressing only the issue of the fraudulent ratification of the Sixteenth Amend-

ment. He said it was "too late in the day for the court to give consideration to the question of whether the Sixteenth Amendment is part of the Constitution and whether the related income tax laws are constitutional." Appendix A-1

Petitioner filed on December 19, 1985 for rehearing and reconsideration. The petition was rejected as being filed too late and for numerous other technicalities. In spite of two separate requests to the court clerk before petitioner filed her complaint with the Claims Court, she was never sent a copy of the court rules and procedures. Appendix B

On January 15, 1986, Petitioner mailed her Notice of Appeal to the U.S. Claims Court. Her Appeal Brief was filed by the court clerk on March 20, 1986. Petitioner's Reply Brief was filed by the court clerk on June 4, 1986.

She brought up the issues presented supra to the Claims Court.

On July 14, 1986 Judges RICH, BENNETT, and BISSELL affirmed the decision of the Claims Court saying in addition:

1. that plaintiff is seeking an injunction restraining the United States from withholding taxes from her wages
2. that plaintiff asserts that wages are not taxable under the sixteenth amendment
3. that plaintiff asserts that withholding of taxes from her wages is unconstitutional
4. that plaintiff's contentions with regard to the Sixteenth Amendment are frivolous

In addition, the court imposed a damage award of \$1,500, in lieu of costs and attorney fees, in favor of the United

States.

Because of mail delays, petitioner filed motions for and received permission for enlargement of time in which to file her petition for rehearing. Appendix c

On September 17, 1986 Judges RICH, BENNETT, and BISSELL denied petitioner's petition for rehearing . Appendix D

REASONS THIS COURT SHOULD GRANT
CERTIORARI

1. Both the Claims Court and the U.S. Circuit Court of Appeals for the Federal Circuit refuse to consider the evidence of fraud that petitioner has submitted to them. Neither court denies that fraud was committed by Secretary of State Philander C. Knox. Each simply takes the position that because of past court decisions upholding the validity of the Sixteenth Amendment, it is too late in the day to question its proper ratification.

In the *Hohri v. United States*, 782 F.2d 227 (D.C. Cir. 1986) the court established that it is never too late to inquire into a matter when a newly-discovered fraud is alleged.

This Court should grant certiorari to consider what effect lateness of the hour has on a case of fraud and establish some guidelines on how long it takes undiscovered fraud to become law.

2. If this Court rules that this case is timely for any of the reasons already stated by petitioner, then because the Claims court did not hold a full evidentiary hearing on the issue of fraud, and did not rule on the issue of fraud, the record is incomplete for an appellate review of the facts. This case must be reversed and remanded with instructions to the Claims Court to hold a full evidentiary hearing.

3. That neither the Claims Court nor the

Appeals Court addressed the issues that petitioner raised in her Complaint as listed on Pages 11 and 12 above.

4. If the Supreme Court does not rule against the Internal Revenue Service in this instant case, it means that any low level I.R.S agent can mail an employer uncertified instructions to send them an employee's money when s/he owes no back taxes and has never been served with a Federal Tax Assessment of any kind.

Petitioner does not believe our founding fathers envisioned empowering any government agency with this sort of draconian authority when they formulated the Constitution.

5. If this Court does not rule against the I.R.S. in this instant case, in addition to condoning the actions listed in 4. supra, it will be approving such seizures without the granting of any meaningful hearing prior to such seizures

or at any time in the future. This is exactly the position that petitioner is in.

6. After the Appeals Court denied her petition for rehearing, petitioner discovered several tax cases which agree with and highlight her original position. They are: *Sims v. Ahrens, et al* 271 S.W. 720 (1925); *State ex rel. Sallie F. Moon Co. v. Wisconsin Tax Commissioner*, 163 N.W. 639 (1917); *Hattiesburg Grocery Co. v. Robertson*, 88 So. 4 (1921); *Paine v. City of Oshkosh*, 190 Wis. 69 (1926); *United States v. Philadelphia B. & W. R. Co.* 262 F. 188; *Stevens and Woods against the State*, 2 Ark. 291 (1839). The remaining cases which do not appear in petitioner's original Complaint and Appeal from the decision of the Claims Court are spinoffs from the above cases.

CONCLUSION

For each and all of the above reasons, a writ of certiorari should issue to review the judgment and opinion of the Court of Appeals for the Federal Circuit.

ARGUMENT

1. As Petitioner reads the opinion of the Appeals Court, the judges are saying she contends that assuming the Sixteenth Amendment is part of the Constitution:

a. There is no way that a citizen's wages could be taxed with an income tax.

Petitioner never meant to convey this impression. See Reply Brief, pages 10 and 11. Moreover, a tax is not valid until actually assessed:

Also, it is an ancient premise of law that, no matter how equitable a tax may be, it is void unless legally assessed; Joyner v. School Dist. Number Three, 3 Cush. (Mass.) 567.

"Unless a tax is properly assessed, it cannot create a lien available for enforcement by ANY FORM OF PROCESS (emph.

added). Vigue v. Chapman, 138 Me. 206

Under 26 USC Sec. 6322 Federal tax LIEN ARISES WHEN TAX IS ASSESSED, but under 26 USC Sec. 6323(a) it is not valid against mortgagees, pledgees, purchasers, and judgment creditors until placed of public record, and under Sec. 6323(c) mortgagees, pledgees, and purchasers must have actual notice of federal tax lien attaching to securities. United States v. Pioneer American Ins. Co. (1963) 374 US 84, 10 1 Ed 2d 770, conformed to 236 Ark 897, 370 SW2d 445.

b. That she objects to taxes being withheld from her wages.

This is not true and petitioner refutes these contentions in her reply brief at page 1-12, App. Br. at 1, 3, 9, 10, and 17. Also see Compl. at 8, 9, and 12 as well as Exhibits "I", "Q", "R" and "BB".

Petitioner's allegations are not concerned with all prospective taxpayers in the United States, but only with her own situation in this instant case.

2. Regarding the fraudulent ratification of the Sixteenth Amendment please note:

a. only four of the state resolutions quoted the language of the amendment with absolute accuracy.

b. Thirty-three resolutions contained punctuation, capitalization, or wording errors.

c. Minnesota did not send a copy of the resolution passed by its legislature to the Secretary of State. The secretary of the Governor merely informed the State Department that the legislature had ratified the proposed amendment.

d. Conclusive evidence, known to the U.S. Secretary of State that the Kentucky legislature in reality did not pass the proposed amendment.

e. Note also, facts known only to Philander C. Knox and his Solicitor, that discrepancies existed in the resolution signatures of South Dakota and Washington.

f. The state of California had no record of the vote in either house.

g. Arkansas rejected the amendment and then ratified it, Compl. Exhibits E & F.

Did Congress contemplate the Secretary of State doing anything more than collecting and recording properly returned copies of the Constitutional amendment EXACTLY AS CONGRESS DRAFTED THAT AMENDMENT and then announcing the tally?

It is Petitioner's position that Congress had no such intent. For example in 18 U.S.C. at page 5, the Chief Justice is authorized to transmit amendments to the rules to the Attorney General with the request that he report them to the Congress at the beginning of the regular session of the 81st Congress in January, 1949. In 28 U.S.C. the same type of instructions are given on pages 6 and 7. On page 7 in the Order of April 17, 1961 Mr. Justice Douglas as part of his filed statement on Page 8 says, "We said in

Snyder v. Buck, supra...that if Rule 25(d) is to be amended in the manner then urged and now adopted 'the amending process is available.' WHERE WE HAVE A MATTER SO HEAVILY ENCRUSTED WITH LEGISLATIVE POLICY, I THINK ANY CHANGE SHOULD BE LEFT TO CONGRESS. (Petitioner's emphasis)

The above facts prove that even the most learned and honest justices in the land are expected to, and do, submit any changes in their rules or policy for examination and approval of Congress.

The documented discrepancies in the actual wording and adoption processes of the proposed 16th Amendment to the Constitution were flagrant enough for the U.S. State Department Solicitor to list them for consideration by Philander C. Knox. Yet there is no indication that either of these men considered notifying even a single congressman. It appears they kept

these deficiencies secret and announced that the amendment had been ratified by the requisite number of states.

Petitioner views this as fraud and there is no statute of limitation on the prosecution of fraud, *Hohri v. United States*, 782 F.2d 227 (D.C. Cir. 1986) in the court except that latches will occur if prosecution does not commence on discovery. *Michoud v. Girod*, 4 How. (U.S.) 561, 11 L.Ed. 1076, *Humphreys v. Mattoon*, 43 Ia. 556; *Martin v. Martin*, 35 Ala. 560; *Kraus v. Thompson*, 30 Minn. 64.

The injured party must repudiate the transaction in toto, if at all; he may not adopt it in part and repudiate it in part. *Farmer's Bank v. Groves*, 12 How. (U.S.) 51, 13 L.Ed. 889

Petitioner has placed hard evidence of the fraud on the record, thus far uncontroverted. Respondent has not

commented on the validity of Petitioner's evidence but only begs the Court to take no notice of it and rely on decisions made prior to discovery of the fraud.

The Appeals Court for the Federal Circuit has decreed that Petitioner must pay \$1,500. for bringing forward for court review concrete evidence of fraud in the ratification of an amendment to the U.S. Constitution, which to petitioner's knowledge has never been reviewed by this court.

If the Court imposes this fine it will be violating Petitioner's Constitutional right to petition her government for redress of grievance and guilty of attempting to stifle her free speech - both under Amendment I of the United States Constitution and thus making the Court a party to the coverup of fraud perpetrated upon the Federal Government - which is a crime listed in 18 U.S.C

Section 1001.

3. The U.S. Internal Revenue Service has no jurisdiction over her person or over the subject matter. The subject matter is her gross wages earned by her own labor. As such they are her source. The Federal Income Tax reaches only that income which is severed from the source. *Stapler v. U.S.* 21 F. Supp 737, 739

In the famous case of *Pollock v. Farmers' Loan & Trust Co.* 157 U.S. 429 (1894) the U.S. Supreme Court at pages 580 - 586 discusses thoroughly what a SOURCE is and the consequences of its taxation.

At the bottom of page 580 the court states:

"The name of the tax is unimportant. The real question is, is there any basis upon which to rest the contention that real estate belongs to one of the two great classes of taxes, and the rent or income which is the incident of its ownership belongs to the other? We are unable to perceive any ground for the alleged distinction. An annual tax upon the annual value or annual user of real estate

appears to us the same in substance as an annual tax on the real estate, which would be paid out of the rent or income. This law taxes the income received from land and the growth of produce of the land. Mr. Justice Paterson observed in Hylton's case, "land, independently of its produce is of no value;" and certainly had no thought that direct taxes were confined to unproductive land."

Paraphrasing from Mr. Justice

Paterson's analysis of the Hylton case *supra*, Petitioner substitutes the words "labor" and "wages" for "land" and "produce". The analogy would then read "The real question is, is there any basis upon which to rest the contention that labor belongs to one of the two great classes of taxes, and the laborer's wages which are the incident of its expenditure belongs to the other? We are unable to perceive any ground for the alleged distinction. An annual tax upon the annual wage appears to us the same in substance as an annual tax on the labor.

. . . . "Labor independent of wages is of no value; and [the court] certainly had no thought that direct taxes were confined to unproductive labor."

4. It has been well settled that income taxes are not property taxes, and fall within the class of excise taxes.

Reynolds Metal Co. v. Martin, (Ky.) 107 S.W. 2d 251, 259; Hale v. Iowa State Bd. of Assmt. & Review, (Iowa) 271 N.W. 168; Miles v. Department of Treasury (Ind.) 193 N.E. 855, 860; Blaustein v. Levin (Md.) 4 A.2d 861, 862.

Excise taxes can be indirect taxes, Bank of Commerce & Trust Co. v. Senter, (Tenn) 260 S.W. 144, 147, 149; State Tax Commission v. Hughes Drug Co. (Ky.) 293 S.W. 944; Scholey v. Rew, 90 U.S. (23 Wall.) 331, 346, 23 L. Ed 99.

Excises can also be direct taxes. United States v. Philadelphia, B. & W.

R. Co., D.C. Pa., 262 F. 188, 190.
 Sims v. Ahrens, et al 271 S.W. 720 (1925);
 State ex rel. Sallie F. Moon Co. v.
 Wisconsin Tax Commissioner, 163 N.W. 639
 (1917); Hattiesburg Grocery Co. v. Robert-
 son, 88 So. 4 (1921); Paine v. City of
 Oshkosh, 190 Wis. 69 (1926);

But no matter what form an excise
 takes, when it is imposed upon an individ-
 ual, corporation or business, it always
 taxes some sort of privilege. United
 States v. Philadelphia, supra; People ex
 rel. Staten Island Rapid Transit Ry. Co.
 v. Taylor, 287 N.Y.S 456, 460; Bank of
 Commerce & Trust Co. v. Senter, supra.
 Sims v. Ahrens, supra; State ex rel.
 Sallie F. Moon Co. v. Wisconsin Tax
 Commissioner, supra Hattiesburg Grocery
 Co. v. Robertson, supra ; Paine v. City
 of Oshkosh, supra.

"An excise Tax, using the term in its
 broad meaning as opposed to a property
 tax, includes taxes sometimes designa-

ted by statute or referred to as privilege taxes, license taxes, occupation taxes, and business taxes. * * * Generally the term 'excise taxes' is used to distinguish such taxes from taxes on property. It is often very important to determine whether a certain tax is a property tax or an excise tax, i.e. whether (1) a property tax or (2) an occupation, license, business privilege, or franchise tax."

Cooley on Taxation, Vol. 1 (4th Ed.)
Sections 45 and 46

The United States Constitution

guarantees to every man his right to labor for his existence and to earn wages.

Bogni v. Perotti, (Mass), 112 N.E. 835;
Cornellier v. Haverhill Shoe Mfgs. Assn.
(Mass) 109 N.E. 643; Wright v. Baltimore
& Ohio R.R. Co., (Md), 125 A. 881; Cameron
v. International Alliance of Theatrical
Stage Employees. (N.J.) 176 A. 692

It has been held that an income tax is not a tax on the income itself, but on the privilege of receiving the income or profits. Paine v. Oshkosh, 190 Wis. 69, 72 (1926); Sims v. Ahrens, et al 271 S.W.

720 (1925); State ex rel. Sallie F. Moon Co. v. Wisconsin Tax Commissioner, 163 N.W. 639 (1917).

Now if the Federal Income Tax is an excise tax, and an excise when placed directly on an individual is a tax on a privilege, petitioner motions the Internal Revenue Service to present verifiable evidence as to which of petitioner's privileges the government is proposing to tax and the proof of the Constitutionality of such taxation.

As petitioner stated above, the U.S. Constitution protects her right to labor and to earn wages for that labor. And courts have repeatedly held that no excise tax may be imposed upon a right secured by the Constitution. Grosjean v. American Press Co., 297 U.S. 233 (1936); Murdock v. Pennsylvania, 319 U.S. 105 (1943); Sims v. Ahrens, 271 S.W. 720 (1925)

Is the Internal Revenue Service

saying that petitioner has the right to labor all she wants to but actually collecting her wages for that labor is a privilege? I don't believe that our founding fathers espoused this concept of earning wages in relation to taxation when drafting our Constitution. Documents Illustrative of the Formation of the the Union of the American States 69th Congress, 1st Session - House Document 398, pages 364, 370, 389, 448, 580 - 584.

If the Internal Revenue Service holds that petitioner's rights are irrelevant and the agency sees that wages have been paid to her but are not really involved with her or her rights, then this violates a main premise of the income tax theory, causing her wages to be considered "property" and property taxation is governed by a different set of rules under the Constitution. Hattiesburg Grocery Co.

v. Robertson, (Miss) supra; State

v. Wisconsin Tax Commission, supra.

"If the person sought to be taxed is the recipient during the tax year of such specific property as income in its ordinary significance, then the person is taxed. But the tax is upon the right or ability to produce, create, receive, and enjoy, and not upon specific property. Hence the amount of the tax is measured by the amount of the income irrespective of the amount of specific property or ability necessary to produce or create it...

But the tax does not seek to reach property, or an interest in property as such. It is a burden laid upon the recipient of an income."

State ex rel Manitowoc Gas Co. v. Wis. Tax Comm. 152 N.W. 848; State ex rel. Bundy v. Nygaard, 158 N.W. 87.

Petitioner begs this court to quote the section of the Constitution which permits Congress - without benefit of apportionment - to tax her with an excise "for the right or ability to produce, create, receive, and enjoy" her wages.

"The meaning of the word "privilege" is to be looked for in the common law. In the realm of England, and by the English law, there were a multitude of privileges

of various kinds, most of which never crossed the Atlantic or took root in our soil. . . . In this country few, if any, privileges exist by prescription, and few of those known in England exist by Legislative grant. But it is a certain class of privileges created in all the States by grant from the Legislature, such as banking, the privilege of keeping ferries, and holding and keeping toll-bridges, of making and receiving toll on turnpikes, canals, and rail-roads; and unquestionably other privileges of the same nature might be created, and when created, would be taxable. These are all special rights, powers, and privileges, not existing before, but created pro hoc vice, and granted out by her Legislature as exclusive rights and franchises. Such privileges which are sources of wealth, or rather wealth in themselves, created and conferred by Legislative grant, and not capable of valuation like tangible and corporeal property, are properly taxable as privileges. . . .

There are certain rights which belong to us as freemen; we do not derive all our rights from Legislative grant; we have some which belong to us by nature, and as citizens of a free country; . . . As all then belong to us originally, they cannot be converted into privileges by any process of Legislative alchemy. No such magical transmutation can be effected. If it could, nothing would be easier than by the enactment of sumptuary laws and acts creating privileges to transform us at one sweep from free citizens of a republic to the mere serfs of the soil. . . .

Privileges are not so created; if

they are, everything can be transmuted into a privilege, and by undergoing this process, an article of property worth a hundred dollars may to-day be taxed one dollar and to-morrow a thousand, while another article of the same, may still remain subject to the original tax of one dollar. Why not in the same tax the privilege of raising cotton, or hemp, or wheat and so make a tax payable by one portion of the State alone. . . .

and surely no one indulges the supposition or entertains the opinion seriously that it was the design of the convention to leave with the Legislature, to be exercised at will, the power of taxing every right enjoyed in common by the whole community, or of taxing them in any other manner, or by a different rule, from that prescribed in the Constitution or that such power is insidiously reserved, concealed under the mask of a special authority to tax privileges, inserted in the constitution by way of exception to the general rule. If such should be the case the insertion of any general principle or rule to regulate the raising of revenue was superfluous, if not absurd, and therefore, in our opinion, such power was intended to be, and is, by the constitution, withdrawn from the Legislature."

Stevens and Woods against The State 2
Ark 291, 294, 295, 296, 302, 303; Arkansas
Supreme Court (1839)

The Sixteenth Amendment, like other laws authorizing and imposing taxes, is to be taken as written, and is not to be extended beyond the meaning clearly

indicated by the language used. Edwards v. Cuba Railroad co. 268 U.S. 628, 631 (1925)

" The concept of profit embodies an accumulation of net gain to the original wealth or invested capital after the necessary deductions are made for the accumulation of such wealth within a given period of time."

"Profits" : Bouvier's Law Dictionary and Concise Encyclopedia (J. Bouvier) Third Rev. by Francis Rawle of the Philadelphia Bar Vol. 3

The federal income tax as applied to corporations and businesses is a NET income tax. 26 U.S.C. Sec. 162, and Sections 161 through 196.

But if an unfranchised citizen laboring at an occupation of common right with only his wages for income tried to assess himself for the income tax under Title 26, he would find precious few of the deductions granted to corporations or businesses applicable to him and his wages. He is (at least prima facie) not

allowed to deduct all the cost of his food, clothing, utilities, rent, medical expenses, insurance, travel, vehicles, and the repairs and depreciation of same. The paltry deductions allowed this citizen only give the ILLUSION of a net income tax. As applied to an individual in such a situation the income tax is really a GROSS income tax.

And if the seizure of petitioner's wages with no existence of an assessment can be liberally construed as a tax, then it a GROSS income tax and is taxing her labor and occupation of common right allowable under the Constitution only with benefit of apportionment among the States. *Sims v. Ahrens*, (Ark) 271 S.W. 720, 733 (1925) and applying this tax unequally and not uniformly upon the subjects in this nation. *Sims v. Ahrens*, *supra*, 720

Gross income taxes are again, taxes

on privilege. People ex rel Staten
Island Rapid Transit Ry. Co. v Taylor 287
N.Y.S. 456, 460; Monteith Bros. Co. v.
Department of Treasury of Indiana, 19 N.E.
2d 1010

Petitioner again moves the I.R.S. to
name the privilege(s) which make plaintiff
and the imaginary citizen above liable for
the federal income tax.

In the case of Sims v. Ahrens, supra,
the Arkansas Supreme Court rejected as
unconstitutional a gross income tax
imposed on the citizens of that state. At
page 733 Judge Wood argues the merits of a
net income tax.

"But here again let me observe that
the occupation, business, profession,
or employment is one thing, while the
income derived therefrom is an
entirely different thing. The former
may not be taxed, but the latter may.
Thousands of individuals in this state
carry on their occupations as above
defined who derive no income whatever
therefrom. But where an income is
derived . . . then the Legislature
may lay thereon a tax for the purpose

of raising revenue to meet the expenses of government."

Sims v. Ahrens (Ark) 271 S.W. 720, 733

Is Judge Wood saying that every day in Arkansas thousands of citizens go to work at occupations of common right, earn nothing, receive no wages and live off thin air or the charity of their family, friends, and the State? Petitioner doesn't think Arkansans are that unique. What the Judge was making clear, is that if at the end of the tax year, there is no evidence that the citizen didn't spend all his wages on simply existing, and if he didn't invest his wages so that they earned more money/income for him, then he would not be liable for a net income tax.

"If it be true that by varying the form the substance may be changed, it is not easy to see that anything would remain of the limitations of the Constitution, or of the rule of taxation and representation, But Constitutional provisions cannot be thus evaded. It is the substance and not the form which controls, as has

indeed been established by repeated decisions of this court.

Pollock v. Farmers' Loan & Trust Co.
157 U.S. 429 (1894).

Petitioner begs this Court to cite in which section of the Constitution our founding fathers intended the wages of an unenfranchised individual, laboring at an occupation of common right to sustain his life, to be liable for an excise/privilege tax without benefit of apportionment.

CONCLUSION

For these reasons, a writ of certiorari should issue to review the judgment and opinion of the Court of Appeals for the Federal Circuit.

Respectfully submitted

Jacqueline M. Robnett
Box 659 Suisun City, Calif.
94595
(707)646-3348
Petitioner Pro Se

DECLARATION

I, JACQUELINE M. ROBNETT, declare that I am the Appellant/Petitioner in the foregoing action, that I have read the contents thereof, and declare under pains and penalties of perjury that they are true to the best of my knowledge and belief.

DATED: December _____, 1986.

Jacqueline M. Robnett

PROOF OF SERVICE

THE STATE OF CALIFORNIA)

)

COUNTY OF SOLANO

)

Before me, the undersigned Notary Public in and for Solano County, California, on this day personally appeared JACQUELINE M. ROBNETT, who being by me duly sworn, upon oath stated: I, JACQUELINE M. ROBNETT, am the Petitioner, herein named, in all proceedings in which she has been involved in the Courts mentioned above.

I further state upon oath that on the _____ day of December, 1986, I served _____ copies of the foregoing Petition for Writ of Certiorari on the United States Supreme Court by Depositing the same in the United States mail, with first-class postage prepaid, addressed to the Clerk of the Court at the address indicated, to wit:

Clerk of the Supreme Court of the United States,
1 First Street, N.E. Washington, D.C. 20543

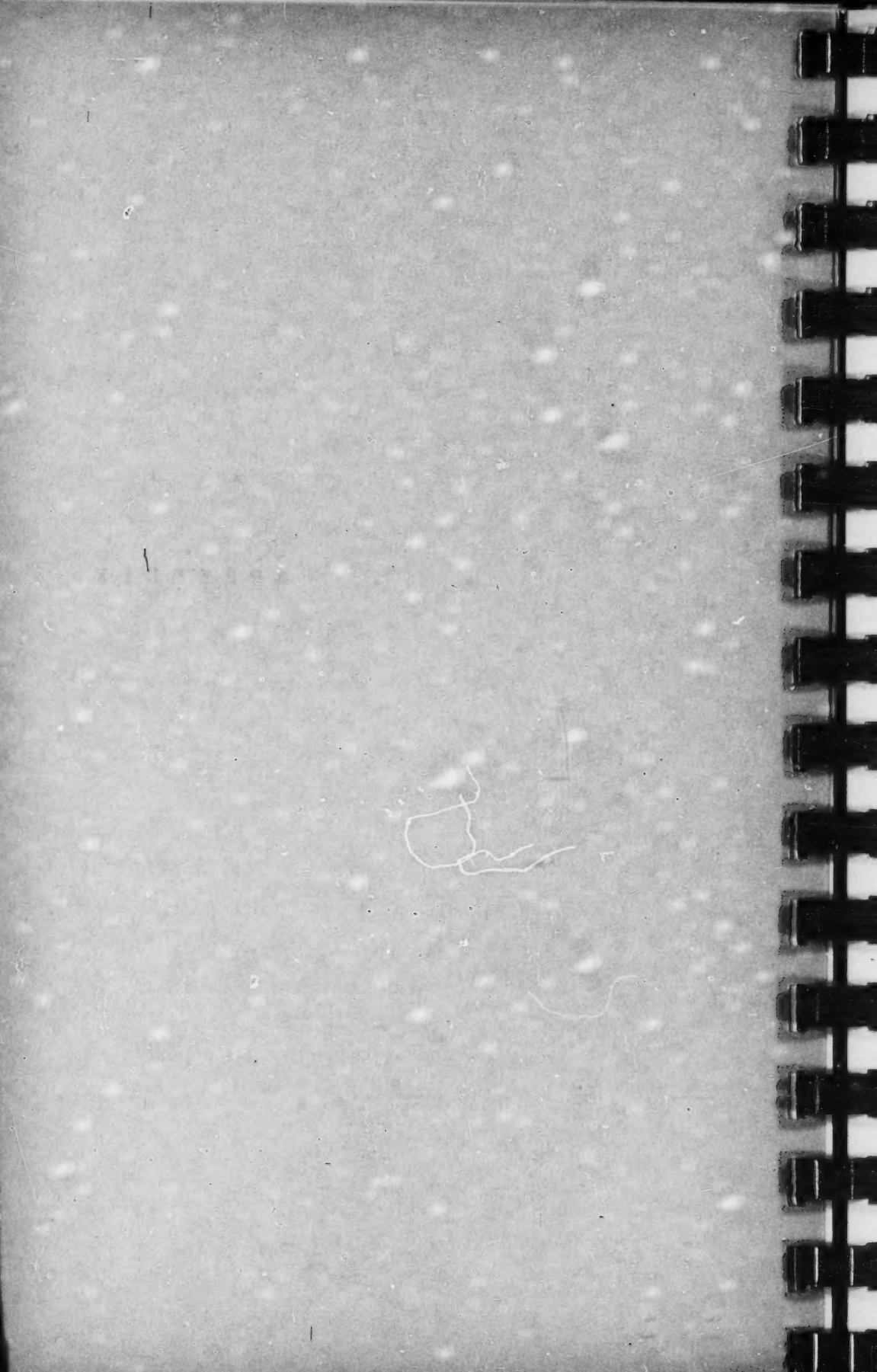
Jacqueline M. Robnett

Subscribed and Sworn to before me by the
Said Jacqueline M. Robnett, on this the _____
day of December, 1986.

Clint Sloan
Notary Public
State of California
My Commission Expires:



A P P E N D I X



IN THE UNITED STATES CLAIMS COURT

No. 680-85C

(Filed November 21, 1985)

JACQUELINE M. ROBNETT v. THE UNITED STATES

ORDER OF DISMISSAL

The heart of the plaintiff's complaint which covers 18 pages and, in addition, incorporates by reference many attached documents is found in the allegations that the plaintiff has been employed for 11 years at the Mare Island Naval Shipyard; that shipyard officials have withheld, as income tax withholdings, an unspecified amount of pay otherwise due the plaintiff (and, presumably, have transferred such money to the Internal Revenue Service); that such action by shipyard officials was

unlawful because the income tax laws are unconstitutional, inasmuch as the Sixteenth Amendment to the Constitution, upon which such laws are based, was never ratified by the requisite number of States and, therefore, never became part of the Constitution. The plaintiff sues for actual and punitive damages in the amount of \$200,000.

It is too late in the day for this court to give consideration to the question of whether the Sixteenth Amendment is part of the Constitution and whether the related income tax laws are constitutional. The constitutionality of the income tax laws, enacted under the authority of the Sixteenth Amendment, has long been established through decisions by the Supreme court and other federal appellate courts (e.g., *Brushaber v. Union Pacific Railroad Co.*, 240 U.S. 1 (1916); *Crowe v. Commissioner of*

Internal Revenue, 396 F. 2d 766, 767 (8th Cir. 1968); Swallow v. United States, 325 F. 2d 97 (10th Cir. 1963), cert. denied, 377 U.S. 951 (1964); Porth v. Brodrick, 214 F. 2d 925, 926 (10th Cir. 1954).

Arguments to the effect that the Sixteenth Amendment is not part of the Constitution and, therefore, that the income tax laws, including the withholding provisions, are unconstitutional, must now be regarded as frivolous and as stating a claim, on which relief cannot be granted. See United States v. Burton, 575 F. Supp. 1320, 1323 (E.D. Tex. 1983).

Conclusion

For the reasons previously stated, it is concluded that the complaint in this case seeks relief which is beyond the jurisdiction of this court to grant.

The clerk is therefore directed to

dismiss the complaint for lack of jurisdiction.

Each side shall bear its own costs.

IT IS SO ORDERED.

Mastin G. White
Senior Judge

IN THE UNITED STATES CLAIMS COURT

NOTICE

JACQUELINE M. ROBNETT

NO. 680-85 C

vs.

THE UNITED STATES

Clerk's Office

Washington, D.C., December 30, 1985

To Attorney of Record, Assistant Attorney
General, and Senior Judge White:

Please take notice that plaintiff's
notice of intent to file for rehearing and
reconsideration, received on December 23,
1985, is RETURNED UNFILED, pursuant to
instructions from the judge, for the
following reasons(s):

- X Untimely, due to be filed by
December 6, 1985 (if submitted as a
motion for reconsideration).
- X Proof of service is missing.
- Signature of attorney of record does
not comply with Rule 81(a)

_____ Brief exceeds the page limitation of
Rule 83.1(b)

 X Failure to provide copies (Rule 83)

 X Failure to comply with the provisions of Rule 82(e) re phone number
[also required by Rule 11].

 X No provision in the Rules for the
filing of this item (if submitted as
a "Notice of Intent, etc."

_____ Other:

Frank T. Peartree, Clerk

Jacqueline M. Robnett
1661 Meadowlark Drive
Fairfield, Calif.
94533

October 15, 1985

U.S. Claims Court
717 Madison Place N.W.
Washington, D.C. 20005

Attn: Court Clerk

Dear Sir:

I need a copy of the Rules of the Claims Court. If it is within your purview to send me one, I would certainly appreciate it!

Also,. I need some advice regarding evidence I want to submit to the court.

This evidence is in the form of certified copies of documents from the archives of the U.S. Congress. They have the seal of the United States of America, and were very difficult for me to obtain. I do want to present them to the court,

on the other hand I don't want to loose them.

If I submit my originals to the Claims Court, can I get them back if I need to appeal to the U.S. Supreme Court? Is

Yes there a way I can submit certified copies of my originals to the court instead of sending my originals from the archives?

Thank you for any help you can give in this matter.

Very truly yours,

Jacqueline M. Robnett

See enclosed instruction sheet as to preparation of Complaint for Filing; when you send your Complaint in for Filing request a copy of the rules at that time.

J. Robnett
CHAU
10/16/81

UNITED STATES CLAIMS COURT

COMPLAINT REQUIREMENTS

Caption as Follows:

IN THE UNITED STATES CLAIMS COURT

Your Name

v.

No.

THE UNITED STATES

COMPLAINT

Original plus 7 copies; typewritten on letter size paper; duplication by any of the modern photocopy methods; each copy of complaint must be complete in itself, i.e., if attachments are utilized then original and all copies must contain the attachments

Facts upon which claim is based must be set forth in concise form numbered paragraphs.

Concluding or "Wherefore" paragraph should set forth demand for judgment against United States in X number of dollars.

Name and address should appear at end of all copies, and original must contain your signature.

Check in sum of \$60.00 payable to "clerk, U.S. Claims court" in payment of filing fee. If one desires to file without payment of this fee, then appropriate forma pauperis affidavit must accompany complaint making such a request.

Original plus 7 copies together with filing fee must be forwarded to "Clerk, U.S. Claims Court, 717 Madison Place N.W., Washington, D.C. 20005."

Service on the United States will be made by the Clerk, and your receipt for the filing fee or the notice of allowance of the forma pauperis request will show file date and docket number. Subject to prior action by the court, the United States has 60 days from file date to answer or other-

wise respond to the complaint.

Frank T. Peartree
Clerk, U.S. Claims Court

Certified Mail No. Jacqueline M. Robnett
P 596 791 312 1661 Meadowlark Drive
Fairfield, Calif.
94533

November 15, 1985

Court Clerk
U.S. Claims Court
717 Madison Place N.W.
Washington, D.C. 20005

Dear Sir;

Enclosed please find one original and seven copies of my complaint. Also enclosed is Postal Money Order 34810056483 in the amount of sixty dollars (\$60.00) in payment of the filing fee.

Please send me a copy of the Court of Claims rules.

Very truly yours,

Jacqueline M. Robnett

Jacqueline M. Robnett
1661 Meadowlark Drive
Fairfield, California
94533

Plaintiff Pro Per

IN THE UNITED STATES CLAIMS COURT

JACQUELINE M. ROBNETT

V.

No. 680-85 C

THE UNITED STATES

NOTICE OF INTENT TO FILE FOR
REHEARING AND RECONSIDERATION

I

Plaintiff feels the next proper step in her suit against the United States of America is to file for a Rehearing and Reconsideration of her complaint.

She observes that all the issues stated in her complaint have not been addressed.

II

Plaintiff must state at this point that she must be absolved from adhering to the letter of this court's rules re this petition because she has twice requested the rules of the U.S. Court of Claims, and has never received a copy. She is, at this point, "flying blind: as far as this court's rules.

She has searched at University of California-Davis Campus, and Mare Island Navy Shipyard Legal Office, plus 2 other

legal offices. None has copies of this court's rules.

III

Plaintiff requests, a third time, a copy of the rules of the U.S. Claims Court.

Dated this 19th day of December, 1985

VERIFICATION

I, JACQUELINE M. ROBNETT, do declare that the foregoing is true and correct to the best of my knowledge and information which has been presented to me.

Jacqueline Robnett
Meadowlark Dr. (1661)
Fairfield, Calif.
94533

Respectfully Submitted;

Jacqueline M. Robnett
Plaintiff, pro per

Note: This opinion will not be published in a printed volume because it does not add significantly to the body of law and is not of widespread legal interest. It is a public record. It is not citable as precedent. The decision will appear in tables published periodically.

UNITED STATES COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

JACQUELINE M. ROBNETT,)	
Appellant,)	
)	
v,)	Appeal No. 86-849.
)	
THE UNITED STATES)	
Appellee.)	

DECIDED: July 14, 1986

Before RICH, Circuit Judge, BENNETT, Senior
Circuit Judge, and BISSELL, Circuit Judge.

Appellant appeals from the November
21, 1985, order of the United States Claims
Court dismissing appellant's complaint
seeking an injunction

restraining the United States from withholding taxes from her wages, the return of amounts alleged to been improperly withheld, plus \$200,000 in "actual and punitive damages." Appellant contends that the Sixteenth Amendment was never properly ratified, that, even if properly ratified wages are not taxable under that amendment, and that, even if wages were properly taxable, the withholding of taxes from her wages is unconstitutional. The Claims court dismissed and stated that "[i]t is too late in the day for this court to give consideration to the question of whether the Sixteenth Amendment is part of the Constitution and whether the related income tax laws are constitutional," and that these claims "must now be regarded as frivolous and as stating a claim on which relief cannot be granted." We affirm the

dismissal because appellant's claims and this appeal are by all measures frivolous. We assess against appellant a damage award of \$1,500, in lieu of costs and attorney fees, in favor of the United States, see Fed. R. App. P. 38, as a note to those, like appellant, who would raise arguments for which the death knell sounded long ago.

86-849

- 2 -

UNITED STATES COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

JACQUELINE M. ROBNET,) Appeal No. 86-849
Appellant,))
v.))
THE UNITED STATES,))
Appellee.))

Before RICH, Circuit Judge, BENNETT,
Senior Circuit Judge, and BISSELL, Circuit
Judge.

ORDER

A petition for rehearing having been filed in this case, UPON CONSIDERATION THEREOF, it is ORDERED that the petition for rehearing be, and the same hereby is, denied.

FOR THE COURT

Francis X. Gindhart, Clerk

Date _____

cc: Ms. Jacqueline M. Robnet
Mr. Michael L. Paup, DOJ